

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

\* \* \*

Maribel Rivera-Batres,

Plaintiff,

v.

Kilolo Kijakazi, Acting Commissioner of  
 Social Security,

Defendant.

Case No. 2:23-cv-00227-DJA

**Order**

Before the Court is Plaintiff Maribel Rivera-Batres' motion to strike her first motion for leave to proceed *in forma pauperis* (ECF No. 4) and renewed motion for leave to proceed *in forma pauperis* (ECF No. 5). Plaintiff explains that she accidentally used the wrong event in filing her initial motion. The Court thus grants the motion to strike. (ECF No. 4).

Because the Court finds that Plaintiff has demonstrated an inability to prepay fees and costs or give security for them, it grants the renewed application. The Court also finds that Plaintiff's complaint has met the basic requirements to satisfy screening. The Court finds these matters properly resolved without a hearing. LR 78-1.

**I. Discussion.**

**A. The Court grants Plaintiff's motion to strike.**

The Court has the inherent power to strike improper filings under its inherent power to control the docket. *See, e.g., Ready Transp. Inc. v. AAR Mfg., Inc.*, 627 F.3d 402, 404 (9th Cir. 2010). Plaintiff explains that she inadvertently used the wrong event when filing her initial motion to proceed *in forma pauperis*. The Court thus uses its inherent power to grant Plaintiff's motion to strike the initial motion.

1           ***B. The Court grants Plaintiff's in forma pauperis application.***

2           Plaintiff has submitted the affidavit required by 28 U.S.C. § 1915(a) showing an inability  
3 to prepay fees and costs or give security for them. Plaintiff explains that her mother helps her by  
4 providing \$200 monthly, her husband makes \$1,600 per month, and she receives \$712 in food  
5 stamps each month. Combined, this income barely exceeds Plaintiff's expenses. The Court thus  
6 finds that Plaintiff is unable to pay an initial partial filing fee and grants the application to proceed  
7 *in forma pauperis*.

8           ***C. Plaintiff's complaint passes the Court's screening.***

9           Plaintiff's complaint meets the basic requirements to pass screening. When a plaintiff  
10 seeks leave to file a civil case *in forma pauperis*, the court will screen the complaint. *See* 28  
11 U.S.C. § 1915(e). For social security appeals, judges in this district consider four requirements  
12 for complaints to satisfy screening. *See, e.g., Graves v. Colvin*, 2015 WL 357121, \*2 (D. Nev.  
13 Jan. 26, 2015) (collecting cases). *See id.* First, the complaint must establish that administrative  
14 remedies were exhausted under 42 U.S.C. § 405(g) and that the plaintiff filed the application  
15 within 60 days after notice of the Social Security Commissioner's final decision. *See id.* Second,  
16 the complaint must indicate the judicial district in which the plaintiff resides. *See id.* Third, the  
17 complaint must state the nature of the plaintiff's disability and when the plaintiff claims to have  
18 become disabled. *See id.* Fourth, the complaint must contain a plain, short, and concise  
19 statement identifying the nature of the plaintiff's disagreement with the determination made by  
20 the Social Security Administration and show that the plaintiff is entitled to relief. *See id.*

21           Here, Plaintiff's complaint satisfies all four requirements. First, although Plaintiff does  
22 not explicitly state the provision, the complaint asserts that Plaintiff has properly sought review  
23 under 42 U.S.C. § 405(g) because she applied for supplemental security income benefits, which  
24 application was denied. Afterwards, Plaintiff requested and participated in a hearing before an  
25 administrative law judge (ALJ), who denied Plaintiff's claim on October 5, 2021. The Appeals  
26 Council denied review on December 27, 2022, making the ALJ's decision the final decision of  
27 the Commissioner. Plaintiff filed an *in forma pauperis* application less than 60 days later.  
28 Second, Plaintiff claims to live in the jurisdictional boundaries of this Court. Third, the complaint

1 outlines the nature of Plaintiff's disabilities, and the date Plaintiff became disabled. Fourth, the  
2 complaint concisely states Plaintiff's disagreement with the Social Security Administration's  
3 determination. Because Plaintiff's complaint meets each of these requirements, it satisfies  
4 screening.

5  
6 **IT IS THEREFORE ORDERED** that Plaintiff's application to proceed *in forma*  
7 *pauperis* (ECF No. 5) is **granted** with the caveat that the fees shall be paid if recovery is made.  
8 At this time, Plaintiff shall not be required to pay the filing fee.

9 **IT IS FURTHER ORDERED** that Plaintiff is permitted to maintain this action to  
10 conclusion without the necessity of prepayment of any additional fees or costs or the giving of  
11 security therefor. The Order granting leave to proceed *in forma pauperis* shall not extend to the  
12 issuance of subpoenas at government expense.

13 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to file the  
14 complaint (ECF No. 5-1).

15 **IT IS FURTHER ORDERED** that the Clerk of Court is kindly directed to provide notice  
16 of this action to the Commissioner pursuant to Rule 3 of the Supplemental Rules for Social  
17 Security.

18 **IT IS FURTHER ORDERED** that from this point forward, Plaintiff shall serve upon  
19 Defendant or, if appearance has been entered by counsel, upon the attorney, a copy of every  
20 pleading, motion, or other document submitted for consideration by the Court. Plaintiff shall  
21 include with the original paper submitted for filing a certificate stating the date that a true and  
22 correct copy of the document was personally served or sent by mail to the Defendant or counsel  
23 for the Defendant. The Court may disregard any paper received by a judge which has not been  
24 filed with the clerk, and any paper received by a judge or the clerk which fails to include a  
25 certificate of service.

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The Clerk of Court is kindly directed to **strike** Plaintiff's initial motion for leave to proceed *in forma pauperis* (ECF No. 1).

*[Handwritten signature]*

DANIEL J. ALBREGTS  
UNITED STATES MAGISTRATE JUDGE